

SENATE BILL 3523

By Herron

AN ACT to amend Tennessee Code Annotated, Title 37, Chapter 1, Part 4 and Title 68, relative to prenatal substance use.

WHEREAS, state law currently requires health care providers to report to the department of childrens' services a suspected case of substance use by a prenatal patient if the provider knows or has reason to believe the child suffers from or has sustained injury, disability or a physical or mental condition due to the prenatal patient's substance use; and

WHEREAS, health care providers around the state report anecdotal evidence of increasing use of illegal drugs and prescription drug abuse by prenatal patients as evidenced by outcomes and toxicology testing now performed in delivery rooms; and

WHEREAS, reports from two east Tennessee hospitals that offer obstetrical services indicate that prenatal patients who have recently delivered newborns in their delivery rooms reflect prenatal substance use of between twenty-five percent (25%) and forty percent (40%); and

WHEREAS, no known database exists in Tennessee that reflects the actual statewide rate of prenatal substance use in Tennessee; and

WHEREAS, the general assembly needs current, reliable data in order to make informed decisions in the future to adequately address the issue of prenatal substance use; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 24, is amended by adding the following new part:

68-24-__.

(a) The department of health is authorized to initiate a special, four-month research project designed to determine the current rate of substance use by prenatal patients in Tennessee. The department shall determine for which substances the hospitals shall test and shall identify nine (9) volunteer, sentinel hospitals that offer obstetrical services as follows:

(1) Three (3) in each grand division;

(2) Within each grand division, to the extent possible, one (1) located in an urban county, one (1) in a suburban county and one (1) in a rural county;

(3) The number of births anticipated in the nine (9) selected hospitals should be sufficient to provide strong indication that prenatal drug use and alcohol use is, or is not, a serious problem in the state.

(b) During the term of the project, any physician or person legally permitted to engage in attendance upon a pregnant woman at participating hospitals shall administer, a toxicology test of all pregnant women under the physician's care to determine whether there is evidence of substance use.

(c) During the term of the project, any physician or person legally permitted to engage in attendance upon a pregnant woman at participating hospitals shall administer a toxicology test, to each newborn infant born under that person's care to determine whether there is evidence of prenatal exposure to substances that could adversely effect the outcome of the delivery or jeopardize the growth and development of the newborn.

(d) The department shall develop a mechanism by which the hospitals shall report the results of the toxicology tests to the department. Under no circumstances shall identifying patient information be included in the data reported to the department. The data shall include demographic information on the prenatal patient such as age, race and pay-or status, the results of the mother's and child's toxicology screening, the type

of substances to which the newborn child was exposed, the APGAR scores of the newborn and any health problems, if any, the newborn was experiencing and other information the commissioner of health believes is necessary to draw appropriate conclusions concerning the extent of prenatal drug abuse and alcohol use in Tennessee.

(e) The department is authorized to establish reasonable fees and to make compensation to the participating hospitals, physicians and lab services to make a clinical determination of prenatal substance use for all screened women and newborns, irrespective of third party coverage. Under no circumstances shall participating hospitals, physicians or laboratories bill a third party carrier or the family or pregnant woman for this service but shall be willing to accept the state's reimbursement as payment in full. Providers found to collect payment from both the state and another source shall be assessed a fine that is three (3) times the amount collected from all sources unless the provider identities, reports and makes restitution of the duplicate collection within sixty (60) calendar days of the duplicate payment.

(f) The participating hospitals and providers shall not be liable in any civil or criminal action that is based solely upon participation in this research project.

(g) This section shall not change the requirement of health care providers to comply with § 37-1-403.

(h) The department shall make a report to the governor and to the speakers of both houses of the general assembly summarizing the results of the research project no later than January 31, 2009.

(i) The commissioner of health has the authority to promulgate public necessity rules in accordance with the provisions of Tennessee Code Annotated, title 4, chapter 5, to implement this section in a timely fashion.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.